United Nations A/72/135

General Assembly

Distr.: General
14 July 2017

Original: English

Seventy-second session
Item 73 (b) of the provisional agenda*
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Rights to freedom of peaceful assembly and of association

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Annalisa Ciampi, submitted in accordance with Human Rights Council resolution 32/32.

* A/72/150.

17-11938 (E) 010817

Please recycle

Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association

Summary

At its thirty-fourth session, the Human Rights Council appointed Annalisa Ciampi as Special Rapporteur on the rights to freedom of peaceful assembly and of association; she formally took up her role on 1 May 2017.

In the present report, the Special Rapporteur outlines her vision of the mandate established by the Council in its resolution 15/21, building on the work of the previous mandate holder.

Contents

		Page
I.	Introduction	4
II.	Activities of the Special Rapporteur	4
III.	Factors shaping the vision of the mandate	5
	A. Mandate as a service	5
	B. Freedom of peaceful assembly and of association as fundamental rights	5
	C. Democracy and freedom of peaceful assembly and of association	6
	D. Development and freedom of peaceful assembly and of association	7
IV.	Contributions of the previous mandate holder	8
V.	Thematic priorities	12
	A. Use of force, including less lethal weapons, and management of assemblies	12
	B. Digital space, emerging technologies and human rights	13
	C. Professional associations, including the role of academic institutions	14
	D. Exercise of the rights to peacefully assemble and to associate at the international level, specifically in the context of multilateral institutions	14
	E. Good and promising practices that promote and protect the rights to freedom of peaceful assembly and of association	14
VI.	Working methods	15
	A. Visibility of the mandate and knowledge of the special procedures mechanisms	15
	B. Reports	15
	C. Country visits	15
	D. Communications and media statements	16
	E. Academic visits, consultations with stakeholders and other events	16
	F. Strategic litigation in national, regional and international courts	16
	G. Early warning, prevention and calls to the Human Rights Council, the Security Council and other bodies to respond to situations of emerging concern	17
	H. Coordination	17
VII.	Conclusion and recommendations	18

I. Introduction

1. In the present report, her first to the General Assembly and the first presented in her own right, the Special Rapporteur on the rights to freedom of peaceful assembly and of association outlines her vision of the mandate established by the Human Rights Council in its resolution 15/21 and renewed in its resolution 32/32.

2. The Special Rapporteur is grateful to the previous mandate holder, Maina Kiai, for the enormous amount of work carried out in the past six years of the mandate.

3. In section II, the Special Rapporteur provides an account of her activities since she took up her role on 1 May 2017. In section III, she outlines the factors that shape her vision. In section IV, she recaps and summarizes the thematic reports presented by the previous mandate holder, whose work constitutes the bedrock upon which she will build. In section V, she spells out the thematic priorities for the three years to come. A specific plan of action and the methodology of work are detailed in section VI. The conclusion and recommendations are outlined in section VII.

II. Activities of the Special Rapporteur

4. On 6 and 7 June 2017, the Special Rapporteur addressed the Human Rights Council at its thirty-fifth session, for the first time, briefly presenting the reports of her predecessor and outlining a few elements that would guide her mandate. Those elements included engaging with Member States, addressing the question of professional associations and continuing to use the traditional tools of the mandate effectively. It was stressed during the interactive dialogue that there were growing restrictions imposed on civil society and a shrinking of civic space worldwide. The Special Rapporteur concluded the discussion by pointing out that the main reason for the shrinking of civic space was the adoption of restrictive measures and practices by States and therefore called upon States to refrain from adopting such measures and practices.

5. On the margins of the session, the Special Rapporteur held various consultations, including with her predecessor and his team, civil society organizations and other relevant stakeholders, such as the International Labour Organization (ILO), to discuss issues falling under her mandate and to collect their views on the mandate and the way forward.

6. From 27 to 30 June 2017, the Special Rapporteur participated in the twenty-fourth annual meeting of special procedures mandate holders. On the margins of that meeting, she convened a follow-up consultation with non-governmental organizations, with the aim of collecting additional views on current and pressing issues and concerns pertaining to freedom of peaceful assembly and of association. She also held a number of bilateral meetings with permanent missions. She participated in a multi-stakeholder consultation on strengthening the United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity, organized by the United Nations Educational, Scientific and Cultural Organization and the Office of the United Nations High Commissioner for Human Rights (OHCHR) and held on 29 June 2017. The aim of that consultation was to bring together key stakeholders to identify primary achievements, gaps and challenges in previous and existing work on the safety of journalists and to devise recommendations for future work in the context of the Plan of Action.

7. The Special Rapporteur also convened a consultation in Pietrasanta, Italy, on 5 and 6 July, with representatives of civil society organizations whose discussions have fed into the present report.

III. Factors shaping the vision of the mandate

8. The vision of the Special Rapporteur is influenced and shaped by a number of factors, outlined below, which will inform and guide her own work with regard to the mandate.

A. Mandate as a service

9. The mandate is a service, not a personal matter of the individual who happens to be the Special Rapporteur at a given time. Moreover, the mandate is not an end in itself but it is a means to a further end.

10. The Special Rapporteur is intended to be the eyes and the ears of the Human Rights Council on matters pertaining to freedom of peaceful assembly and of association that warrant the Council's attention. However, the ultimate beneficiary of the Special Rapporteur's work cannot be the Council alone.

11. The beneficiaries are and should be the people, as espoused in the Preamble of the Charter of the United Nations, which begins: "We the peoples of the United Nations". The beneficiaries must be civil society: civil society organizations such as non-governmental organizations, development and humanitarian actors, religious associations, political parties, trade unions, social movements, professional associations, academic institutions, and sports, leisure and other associations of all kinds. The beneficiaries must be the people who gather and meet in peaceful assemblies, in private or public space, offline or online, to protest or for any other peaceful purposes.

12. When the people and civil society benefit, States, international organizations and international society as a whole benefit, too.

13. The mandate holder is committed to using her mandate to ensure the full exercise of the rights to freedom of peaceful assembly and of association by all the peoples of the United Nations.

B. Freedom of peaceful assembly and of association as fundamental rights

14. The rights to freedom of peaceful assembly and of association are among the many rights on the list of international human rights; just as all human rights, they are universal, indivisible, interdependent and interrelated.

15. The rights to freedom of peaceful assembly and of association are fundamental rights that form the basis of the full enjoyment of other rights, as they enable the exercise of a number of civil, political, economic, cultural and social rights.

16. The rights to freedom of peaceful assembly and of association are not absolute, meaning that not only can they be temporarily derogated from in a state of emergency, but they can also be exceptionally interfered with under other circumstances. While they are human rights guaranteed to all, their exercise may be subject to certain restrictions. Such restrictions are permitted if they are necessary for a number of public purposes, including the protection of the rights and freedoms of others, as long as they are proportionate and provided for by law. Security and emergency laws, measures aimed at curtailing the financing of international terrorism, anti-money-laundering regulations and other limitations restrictive of civic space in the name of general public purposes, however, do not, as such, justify systematic violations of the freedom of peaceful assembly and of association.

17. Moreover, the rights to freedom of peaceful assembly and of association are fundamental human rights, not only for all functioning democracies, but also for autocratic Governments. A single variable such as freedom of peaceful assembly and of association can actually serve as a barometer for measuring the situation pertaining to, and the enjoyment of, human rights in any given country and a useful proxy for how open or closed countries and their national institutions are.

18. Successes and achievements of civil society in recent years have been thoroughly investigated and recorded (see A/HRC/35/28). They were, by and large, acknowledged, recognized and endorsed by delegations during the clustered interactive dialogue held by the Human Rights Council with the Special Rapporteur on 7 June 2017 (A/HRC/35/28, para. 4).[1] Yet, since the establishment of the mandate in October 2010, the voices of civil society have been restricted or silenced, if not eliminated, in every region across the globe. Mass surveillance, obstructive regulation of democratic space, including online, overly restrictive legislation to regulate association and limit the exercise of fundamental public freedoms, with frequent use of counter-terrorism legislation to curtail dissenting voices, and harassment of and violence against human rights defenders and ordinary people who exercise their right to express opinions in peaceful protests are all too common.

19. Against this background, the Special Rapporteur wishes to emphasize the mutually reinforcing relationship between freedom of peaceful assembly and of association on the one hand, and democracy and development on the other, combined with her willingness to contribute to an increase in global civic space.

C. Democracy and freedom of peaceful assembly and of association

20. Together with freedom of expression and other rights, freedom of peaceful assembly and of association lies at the core of any functioning democratic system. These rights are essential components of democracy, as they empower men and women to "express their political opinions, engage in literary and artistic pursuits and other cultural, economic and social activities, engage in religious observances or other beliefs, form and join trade unions and cooperatives, and elect leaders to represent their interests and hold them accountable" (Human Rights Council resolution 15/21, preamble).

21. The Human Rights Council has adopted a number of resolutions, notably since the Arab Spring, on the promotion and protection of human rights in the context of peaceful protest, in which it stressed that "peaceful protests should not be viewed as a threat" and encouraged all States "to engage in an open, inclusive and meaningful dialogue when dealing with peaceful protests and their causes" (see, for example, resolution 25/38).

22. While the freedom of peaceful assembly and the freedom of association are considered two separate rights (A/HRC/20/27, para. 4), it is essential today to consider how the two rights are closely interrelated and interdependent. The joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies emphasizes the importance of assemblies in developing democratic systems, fostering public participation and presenting alternative perspectives to established interests (A/HRC/31/66, paras. 5-6).

[1] A recording of the dialogue is available from http://webtv.un.org/meetings-events/watch/clustered-id-contd-sr-on-education-sr-on-peaceful-assembly-6th-meeting-35th-regular-session-human-rights-council-/5461810503001.

However, for assemblies, which are generally defined as "temporary" or "long-term" gatherings of people in private, public or online spaces (ibid., para. 10), to achieve their ultimate goals, individuals must be able to fully exercise their right to freedom of association, through which they organize collective action, engage constructively with stakeholders, including policymakers and legislators, and help to institutionalize the political, economic or social changes to which those participating in assemblies aspire. It is the combination of the right to freedom of peaceful assembly and the right to freedom of association that strengthens responsive democratic governance systems and ensures the full and meaningful exercise of the right to participate in public affairs, as expressed in article 25 of the International Covenant on Civil and Political Rights.

23. A State becomes stronger when it nurtures a strong civil society. The relationship between a strong State and a strong civil society is directly, not inversely, proportional. There is no trade-off between the two.

D. Development and freedom of peaceful assembly and of association

24. The intrinsic and inherent link between democracy and the rights to freedom of peaceful assembly and of association does not exhaust the importance of, nor does it fully testify to, the fundamental nature of those rights. Civil society contributes to development as much as it does to democracy.

25. In the Universal Declaration of Human Rights, human rights were recognized as the foundation of freedom, justice and peace. In the unanimously adopted Vienna Declaration and Programme of Action, democracy, development and respect for human rights and fundamental freedoms were evoked as interdependent and mutually reinforcing.

26. In the Declaration on the Right to Development, adopted by the General Assembly on 4 December 1986 in its resolution 41/128, the Assembly called for every member of society to be empowered to participate fully and freely in vital decisions. The Declaration and its principles formed the basis for the conceptualization of a human rights-based approach to development. In the statement of common understanding on human rights-based approaches to development cooperation and programming, adopted by the United Nations in 2003, that approach was outlined as follows:

(a) All programmes of development cooperation, policies and technical assistance should further the realization of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments;

(b) Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process;

(c) Development cooperation contributes to the development of the capacities of "duty-bearers" to meet their obligations and/or of "rights-holders" to claim their rights.

27. The Human Rights Council has reaffirmed those principles through a number of resolutions. Most recently, on 23 June 2017, it adopted resolution 35/21 on the contribution of development to the enjoyment of all human rights. In the resolution, the Council recognized the common aspiration of the international community to build a shared future for human beings and affirmed that development contributed significantly to the enjoyment of all human rights. It called upon all countries to

realize people-centred development of the people, by the people and for the people, and called upon all States to enhance international cooperation and to spare no effort in promoting sustainable development, in particular while implementing the 2030 Agenda for Sustainable Development, as it was conducive to the overall enjoyment of human rights. The Council also welcomed further efforts to promote development initiatives with the aim of promoting partnerships, win-win outcomes and common development.

28. While the inclusion of the concept that development promotes human rights into the international human rights system is crucial, the Special Rapporteur stresses that a major shift in the global human rights conversation requires the recognition that the interaction between development and human rights is twofold. Development contributes to human rights, and the enjoyment of those rights promotes development. In that context, the use of public space, participation in public debate and the possibility of organizing and associating all contribute to expanding civil space within the framework of the Sustainable Development Goals, in particular Goal 16, which provides for peaceful, inclusive and just societies with effective, accountable and inclusive institutions. Inequalities, on the other hand, have a negative impact on the exercise of the rights to freedom of peaceful assembly and of association.

29. Business is often at the origin of violations of human rights, including the rights to freedom of peaceful assembly and of association. In this regard, the Special Rapporteur also wishes to emphasize the potentially positive role of business in defending human rights. A number of companies from various industry sectors are increasingly realizing that the protection of civic society organizations and individuals is not only right, but also in their interest.

30. The Special Rapporteur is committed both to ensuring accountability for business actors in line with the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework and to working together with existing networks with a view to identifying ways that businesses and society can benefit from increased support from the private sector, in partnership with Governments, to create positive and enabling operating environments characterized by good governance, respect for the rule of law and human rights, equality and diversity.

IV. Contributions of the previous mandate holder

31. For the past six years, the previous mandate holder brought extensive human rights experience, deep commitment and great energy to the mandate. In close consultations with key stakeholders, he very carefully identified a range of important issues as the focus of his thematic reports to both the Human Rights Council and the General Assembly.

32. In his first report to the Human Rights Council (A/HRC/20/27), highlighting best practices in promoting the rights to freedom of peaceful assembly and of association, he clarified that the right to freedom of peaceful assembly covered not only the right to hold and to participate in peaceful assemblies, but also the right to be protected from undue interference, and that it further protected those monitoring peaceful assemblies. As to the right to freedom of association, that ranged from the creation to the termination of an association and included the right to form and join an association, to operate freely and to be protected from undue interference, to access funding and resources and to take part in the conduct of public affairs. He further highlighted best practices worldwide that promoted and protected the rights to freedom of peaceful assembly and of association, covering issues such as the

definition of "peaceful assembly" and "association", the presumption in favour of allowing peaceful assemblies, the concept of notification versus authorization of peaceful assemblies, the right to be protected from undue interference during assemblies, building the human rights capacity of law enforcement, the rights of monitors and journalists in the context of peaceful assemblies, the right to form and join an association, including unregistered associations, the right to operate an association freely and be protected from undue interference, the right for associations to access funding and resources, the right to take part in public affairs, the termination, suspension and dissolution of associations and the right to an adequate remedy.

33. In his second report to the Human Rights Council (A/HRC/23/39), addressing civil society's right to seek, receive and use human, material and financial resources, he observed that restrictions on funding had become a major existential threat to associations across the world, as Governments increasingly used the financial noose as a way to silence them. He clarified that, under international law, freedom of association encompassed the right to seek, receive and use human, material and financial resources from domestic, foreign and international sources. He noted that States were obliged to facilitate, not restrict, access to funding so that associations could effectively take part in democratic and developmental processes, just as businesses and Governments do. A document outlining general principles on protecting civic space and the right to access resources, summarizing the key aspects of that right and their legal bases, was issued in May 2014.[2]

34. In his first report to the General Assembly (A/68/299), the previous mandate holder addressed concerns about the exercise of the rights to freedom of peaceful assembly and of association, documenting the countless threats to such freedoms in the context of elections. One of the most critical findings outlined in the report was that elections did not exist in a vacuum, and their quality could not be judged solely by what happened during the vote, but also by what happened before and after the elections. Another critical finding was that, "given the importance of the rights to freedom of peaceful assembly and of association in the context of elections, the threshold for imposing such restrictions should be higher than usual: the criteria of 'necessity in a democratic society' and 'proportionality' should be more difficult to meet during election time" (ibid., para. 25).

35. In his third report to the Human Rights Council (A/HRC/26/29), in which he assessed the threats against groups most at risk when exercising their rights to freedom of peaceful assembly and association, the previous mandate holder focused on the challenges facing groups that were often relegated to the margins of society, both in their daily lives and in the exercise of those rights. In the report, he highlighted the link between the denial of those rights and the marginalization of such groups and how that marginalization exacerbated their inability to effectively exercise their rights. Some of the groups considered to be most at risk were persons with disabilities; youth, including children; women; lesbian, gay, bisexual, transgender and intersex people; members of minority groups; indigenous peoples; internally displaced persons; and non-nationals, including refugees, asylum seekers and migrant workers. For the purpose of the report, the groups most at risk also included groups and individuals who were targeted not because of their identity, but because they actively lobbied for the rights of those most at risk of discrimination and retribution. He noted that human rights defenders, including journalists, trade unionists and environmental activists, faced considerable opposition, harassment, stigmatization and even physical attacks from State and non-State actors in many countries.

[2] Available from www.ohchr.org/Documents/Issues/FAssociation/GeneralPrinciples ProtectingCivicSpace.pdf.

36. In his second report to the General Assembly (A/69/365), he examined the exercise of the rights to peacefully assemble and to associate at the international level, specifically in the context of multilateral institutions and their impact on those rights. He observed that civil society was far too often excluded from international debates, with multilateral institutions commonly viewing peaceful assemblies, whether during global summits or when implementing a project, as posing a security threat; that the operations of many multilaterals lacked transparency; and that reprisals against human rights defenders who cooperated with multilaterals were common. He further examined obstacles to the exercise of assembly and association rights in the context of multilaterals, some erected by the entities themselves, and some by the States that comprised them. He also made extensive recommendations on what should be done to improve the situation.

37. In his fourth report to the Human Rights Council (A/HRC/29/25), on the rights to freedom of peaceful assembly and association in the context of natural resource exploitation, the previous mandate holder examined the role that those rights played in opening up space for genuine and effective participation across the spectrum of natural resource exploitation activities. He also examined how those rights helped to foster increased transparency and accountability, facilitate constructive dialogue and, ultimately, form the basis for people's ability to secure other substantive rights. In the report, he noted that the significance of civil society as a stakeholder in the context of natural resource exploitation was underestimated, misperceived and often denied by both States and businesses and that that was symptomatic of a growing disregard for a plurality of views, particularly those which championed non-economic values over economic ones. He argued that such disregard for civil society input was counterproductive and divisive and likely to contribute to an erosion of confidence in the world's prevailing economic system. He concluded that it was in the interest of both States and corporations to recognize actions by civil society groups, both in support of and against the entire decision-making chain in natural resource governance, as a legitimate exercise by those individuals and groups of their rights to freedom of peaceful assembly and of association.

38. In his third report to the General Assembly (A/70/266), he provided a comparative study on the treatment of businesses and associations by States worldwide, comparing the enabling environments created by States, multilateral organizations and other actors for businesses and associations and highlighting instances in which they were treated inequitably. He found that States and other actors often imposed more burdensome regulation on associations, both in law and in practice, with businesses receiving more favourable treatment. The net result was that, for businesses, the enabling environment, defined broadly as action or inaction by States and other actors to promote a particular non-State sector, was typically much better than it was for associations. In the report, he advocated "sectoral equity": a fair, transparent and impartial approach in which the regulation of each sector would be grounded in domestic and international law, standards and norms and where regulations would be clearly set forth in law, with minimum discretion given to State officials.

39. In his fifth report to the Human Rights Council (A/HRC/32/36), the previous mandate holder addressed the phenomenon of fundamentalism and its impact on the exercise of the rights to freedom of peaceful assembly and of association. While he stressed that the mere voluntary adherence to a fundamentalist belief system was not a human rights violation in and of itself, he recalled that, when holders of such beliefs sought to impose them in a way that controlled or restricted the rights of others who might have different views or backgrounds, they threatened the values of pluralism and broadmindedness that were core to democracy. The tipping point, for the purposes of the report, was when fundamentalist views formed the basis for

violations of the rights to freedom of peaceful assembly and of association. He also examined the positive role that those rights could play in preventing the spread of extremism and radicalization.

40. In his fourth report to the General Assembly (A/71/385), the previous mandate holder focused on the rights to freedom of peaceful assembly and of association in the workplace in the context of the new global economic order, in which the power of large multinational corporations had increased, while, at the same time, the power of States to regulate those business entities had eroded, if not, in some cases, having been voluntarily ceded in order to attract the businesses in question. He observed that the new global economic order had had a profound impact on workers' ability to exercise their rights to freedom of peaceful assembly and of association. He noted that the traditional tools for asserting labour rights, such as trade unions, strikes and collective bargaining, had been significantly weakened around the globe, and vast swathes of the world's labour force were unable to exercise their fundamental rights to associate or assemble and were without access to remedies when their rights were violated. He examined how and why that had happened, focusing on the most marginalized portions of the world's labour force, including global supply chain workers, informal workers, migrant workers and domestic workers. He found that, although States were under an international obligation to respect and promote workers' rights to freedom of peaceful assembly and of association, many were dismally failing at the task, with grave implications. Those rights were a critical tool in levelling the unequal relationship between workers and employers that, in turn, helped workers to correct abuses and gain access to fair wages, safe working conditions and a collective voice. Poor enforcement of those rights in the workplace could also exacerbate global inequality, poverty, violence and child and forced labour and directly contributed to problems such as trafficking in persons and slavery. He recommended obliterating the distinction between labour rights and human rights generally, as labour rights were human rights, and the ability to exercise those rights in the workplace was a prerequisite for workers to enjoy a broad range of economic, social, cultural, political and other rights.

41. In 2016, the previous mandate holder, together with the previous holder of the mandate on extrajudicial, summary or arbitrary executions, submitted a joint report to the Human Rights Council on the proper management of assemblies (A/HRC/31/66). In their report, they noted that, despite the increasingly prominent role that assemblies played, there remained a lack of clear understanding of the applicable international human rights law and standards. The report provided a compilation of practical recommendations, organized around 10 overarching principles for the proper management of assemblies, and a summary of the applicable international legal standards, followed by practical recommendations on how those principles should be implemented, with the aim of ensuring better protection of the various rights of those engaged in assemblies and associations. An implementation checklist entitled "10 principles for the proper management of assemblies", designed to allow civil society organizations to monitor the implementation of the recommendations outlined in the report, was also published in 2016.[3]

42. In his sixth and final thematic report to the Human Rights Council (A/HRC/35/28), the previous mandate holder addressed the role and achievements of civil society. In the report, he mapped and quantified the myriad ways in which civil society had improved societies globally in the past decade, by protecting civil and political rights, advancing development objectives, moving societies towards

[3] Available from http://www.ohchr.org/Documents/Issues/FAssociation/10PrinciplesProperManagementAssemblies.pdf.

freedom and equality, achieving and upholding peace, regulating corporate behaviour, protecting the environment, delivering essential services and advocating economic, social and cultural rights. The current mandate holder, who presented the report to the Council on 6 June 2017 (see para. 4 above), considers it to be the ideal springboard for the work ahead. She notes with satisfaction that the report received wide support from, and was generally endorsed by, delegations during the interactive dialogue at the thirty-fifth session of the Council.

43. Overall, the previous mandate holder brought great substance to the debate and made substantial contributions to identifying legal standards concerning the establishment, management and, most crucially, the financing of the various forms of civil society organizations and the management of assemblies.

44. In addition, eight country visits have been conducted since the inception of the mandate, to Georgia (A/HRC/20/27/Add.2), the United Kingdom of Great Britain and Northern Ireland (A/HRC/23/39/Add.1), Rwanda (A/HRC/26/29/Add.2), Oman (A/HRC/29/25/Add.1), Kazakhstan (A/HRC/29/25/Add.2), Chile (A/HRC/32/36/Add.1), the Republic of Korea (A/HRC/32/36/Add.2), the United Kingdom (A/HRC/35/28/Add.1, follow-up mission) and the United States of America (A/HRC/35/28/Add.2).

V. Thematic priorities

45. The current mandate holder intends to contribute to the development of international standards for the exercise of the rights to freedom of peaceful assembly and of association and to focus on their implementation or lack thereof. To that end, she will strive to ensure that every paragraph in her reports conveys a relevant piece of information for States, civil society organizations and all relevant stakeholders. As mandated by the Human Rights Council in its resolution 15/21 (para. 5 (d)), she will integrate a gender perspective throughout her work.

A. Use of force, including less lethal weapons, and management of assemblies

46. The first thematic report to the Human Rights Council, in 2018, will be focused on the use of force, including less lethal weapons, and the management of assemblies, building upon the joint report on the proper management of assemblies presented in 2016 (see paras. 22 and 41 above), pursuant to Council resolution 25/38. In addition to following up on the compilation of practical recommendations for the proper management of assemblies provided in the joint report, the Special Rapporteur will tackle current and emerging issues, including:

(a) The distinction between situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, and cases of armed conflicts not of an international character. The latter trigger the application of article 3 common to the Geneva Conventions relating to the protection of victims of international armed conflicts and the application of the Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of non-international armed conflicts. In that respect, the Special Rapporteur will discuss the principle that international humanitarian law does not apply to the exclusion of fundamental human rights law, but fully complements it;

(b) The militarization of police and other law enforcement officials. In this regard, the Special Rapporteur will consider whether the rules on the use of force

need to be the same when a State resorts to deploying military and armed forces in the policing of assemblies;

(c) United Nations peacekeepers and the managing of assemblies. The distinction between civilian police, military police and policing in the context of peacekeeping missions may also require review to determine whether the legal framework for each of those situations is different;

(d) Private security contractors and the managing of assemblies. A restatement of the legal framework is equally needed for guiding both countries and assemblies that engage private sector contractors;

(e) Less lethal weapons. Among the questions to be dealt with in this context are whether the binary separation of lethal and non-lethal weapons should be abandoned or retained and whether and how the use of less lethal weapons, which can result in risk to life when improperly deployed, should be restricted to law enforcement agents and be strictly regulated;

(f) New weapons technologies, including unmanned systems. The Special Rapporteur will explore the challenges and opportunities of new technologies from the perspective of the rights to freedom of peaceful assembly and of association.

B. Digital space, emerging technologies and human rights

47. Another thematic priority is the exercise of the rights to freedom of peaceful association and of association online.

48. The rapid pace of technological development enables individuals all over the world to use information and communications technology and, at the same time, enhances the capacity of Governments, business enterprises and individuals to undertake surveillance, interception and data collection, which may violate or abuse human rights. It is generally recognized that the same rights that people have offline must also be protected online, including the rights to freedom of peaceful assembly and of association (see, for example, Human Rights Council resolution 34/7). However, Internet shutdowns have emerged as a popular means of information control. Government surveillance continues to intensify worldwide, jeopardizing the privacy and security of millions. Net neutrality, the long-held premise that all Internet data should be treated equally and without undue interference, has come under attack (see A/HRC/35/22).

49. The rights to freedom of assembly and of association in the digital sphere are increasingly the subject of restrictive laws and policies. There is a need, therefore, to discuss them in view of the challenges of the digital age and to explore the connection between those rights, specifically, and new technologies.

50. The Special Rapporteur will examine how Governments are increasingly targeting social networks and online communities, in other words, associational activities occurring on the Internet, and will argue that many of the targeted groups are protected "associations" under international law. In this context, a particular focus is warranted on the legal protection of "informal" associations online. The distinction is also to be highlighted between limitations on the use of the Internet that amount to a violation of the freedom of association online and those impinging upon the exercise of the right to freedom of assembly offline.

C. Professional associations, including the role of academic institutions

51. The Special Rapporteur intends to respond to the invitation of the Human Rights Council, pursuant to paragraph 4 of its resolution 32/32, the most recent resolution renewing the mandate, "to consider addressing, in his or her future reporting, the topic of professional associations, including the role of professional associations in the promotion and protection of all human rights, the realization of development efforts and building and maintaining a democratic society, and also including how States and other relevant stakeholders may promote, create and maintain conditions conducive to the development and activities of professional associations".

52. In that context, constraints imposed on independent universities and other academic institutions are an issue of increasing concern in a number of countries. The Special Rapporteur will argue, inter alia, that academic freedom is one of the basic forms through which freedom of association manifests itself and which lies at the core of any functioning democratic system.

D. Exercise of the rights to peacefully assemble and to associate at the international level, specifically in the context of multilateral institutions

53. A further topic of focus is the exercise of the rights to peacefully assemble and to associate at the international level, specifically in the context of multilateral institutions.

54. In this regard, of particular concern to the Special Rapporteur is the question of the consultative status of non-governmental organizations with the Economic and Social Council and the process governing their accreditation with international organizations other than the United Nations.

55. That thematic priority will be developed in follow-up to the aforementioned report concerning multilateral institutions and their effects on assembly and association rights (see para. 36 above), but also as part of a larger, in-depth study on the patterns of multilevel governance and the dynamics of interactions and interrelations between domestic politics and the international system.

E. Good and promising practices that promote and protect the rights to freedom of peaceful assembly and of association

56. Highlighting good and promising practices worldwide that promote and protect the rights to freedom of peaceful assembly and of association remains today one of the core human rights functions of the mandate, according to the relevant Human Rights Council resolutions. Over the course of her tenure, the Special Rapporteur will continue to assess such practices and endeavour to measure their impact, if any, as well as developments subsequent to the first report of the previous mandate holder to the Council (see para. 32 above).

57. The above thematic priorities are not set in stone, but will be updated by the Special Rapporteur as she encounters new challenges and concerns and receives suggestions as to other topics for her future reports.

VI. Working methods

58. As a consequence of, and in line with, the vision outlined in section III above, the present section details the Special Rapporteur's specific plan of action and the methodology of her work.

59. Considering the wealth of thematic research and recommendations produced in the first six years of the mandate, it is of utmost importance for the Special Rapporteur to increase the visibility of and disseminate this work, together with her future work, as broadly and widely as possible, so that it is known and used both internationally and at the national level to advance the rights to freedom of peaceful assembly and of association.

60. Another defining feature of her work will be strategic litigation in national, regional and international courts. The Special Rapporteur considers that litigating in cases that raise issues of freedom of peaceful association and of assembly before national, regional and international courts not only fully complements the advocacy and policy work associated with her mandate, but also will be key to building State practice, alongside and in addition to thematic reports, country visits, communications and awareness-raising.

61. In the following paragraphs, the Special Rapporteur details how she intends to exploit the full potential of the tools within the purview of special procedures mandate holders, in addition to developing new, innovative tools.

A. Visibility of the mandate and knowledge of the special procedures mechanisms

62. For the purpose of enhancing the visibility of her mandate, the Special Rapporteur intends to strengthen the content of the mandate website. She also intends to develop additional user-friendly tools to help the general public to better understand the findings and recommendations.

B. Reports

63. The Special Rapporteur considers reports, especially thematic reports, to be of the utmost importance, not merely rhetorical exercises. Thematic reports are soft law instruments whereby mandate holders contribute to the effectiveness and progressive development of international law. For thematic reports to be relevant and not dead letters, they need to be firmly based on State practice and on the practice of other relevant international actors. To that end, the Special Rapporteur will seek the views of a broad range of diverse voices from all relevant stakeholders, including regional and subregional mechanisms. This will be done, inter alia, through calls for submissions and consultations.

C. Country visits

64. A total of 117 Member States and one non-member observer State have extended a standing invitation to thematic special procedures mandate holders. The Special Rapporteur will work in close cooperation with the Working Group on the Universal Periodic Review to ensure that all Member States extend a standing invitation to mandate holders. She will also endeavour to ensure that each standing invitation corresponds to an actual request for a country visit by the mandate holder.

65. A number of requests have already been sent to Member States, so that an invitation can be extended to the Special Rapporteur.[4] She will reiterate those requests. She will also ensure that all Member States are given an opportunity to cooperate with her and thereby to engage in the work of the Human Rights Council, including States that have thus far failed, or have not been given the opportunity, to do so.

D. Communications and media statements

66. Communications and press releases are formidable tools in the hands of mandate holders. The Special Rapporteur intends to continue to use communications, in the form of letters of allegation and urgent appeal letters, to bring to the attention of States and the international community alleged violations of the rights to freedom of peaceful assembly and of association with regard to individual cases and practices, as well as draft legislation and policies, which may restrict those rights in ways incompatible with international human rights norms and standards.

67. In the first few months of her work, she has already engaged in fruitful discussions with other relevant mandate holders on how to streamline communications and make them more effective. She will pay particular attention to the follow-up to her communications.

68. The media will be accessed and used whenever it is truly believed that drawing public attention to specific situations has a reasonable prospect of either improving the promotion and protection of the freedom of peaceful assembly and of association for the people on the ground or of preventing their violation.

E. Academic visits, consultations with stakeholders and other events

69. The Special Rapporteur will continue to cooperate with civil society and non-governmental organizations that have been working closely with the previous mandate holder, with a view to deepening and further developing existing partnerships. Efforts have already been made to open new channels of cooperation with other international, regional, national and local actors, including academic and research organizations, business networks and numerous other stakeholders.

F. Strategic litigation in national, regional and international courts

70. In the view of the Special Rapporteur, litigating in national, regional and international courts is essential to building international practice, which is exactly the practice that is needed to contribute to the emergence and definition of standards, the assessment of compliance therewith and the promotion of their implementation. She will therefore strive to participate in litigation, mainly, but not exclusively, as amicus curiae, legal expert and third party intervenor, in cases where the rights to freedom of peaceful association and of assembly are at stake.

71. Therefore, and as part of her working methods, the Special Rapporteur sees it as part of her duty to take part in strategic litigation cases before national, regional and international courts where issues relating to freedom of peaceful association and of assembly come to the fore.

[4] See the web page on country visits, which contains lists of requests sent, invitations received and visits conducted by the Special Rapporteur, available from www.ohchr.org/EN/Issues/AssemblyAssociation/Pages/CountryVisits.aspx.

72. Accordingly, she is seeking engagement for litigation. In order to raise awareness among relevant stakeholders and the public at large, the Special Rapporteur seeks the cooperation of professional associations, non-governmental organizations and their networks, as well as other relevant stakeholders and any other parties who have knowledge of cases involving assembly and association issues. A call for submission to that effect can be found on the mandate website.[5]

73. Moreover, while various professional associations and non-governmental organizations will be able and willing to provide support on a case-by-case basis, the Special Rapporteur seeks specialized human resources to establish a legal clinic to provide the legal research and drafting services needed for the preparatory work for the actual filing of amicus curiae briefings and expert opinions.

74. Information on activities carried out in this context will also be made available through the Special Rapporteur's website.

G. Early warning, prevention and calls to the Human Rights Council, the Security Council and other bodies to respond to situations of emerging concern

75. The Special Rapporteur is aware of her responsibility as a mandate holder vis-à-vis the Human Rights Council in determining whether and how the Council should respond to a situation of concern in accordance with objective and human rights-based criteria such as those elaborated in joint statements delivered at the Council, for example, those made by Ireland at its thirty-second session, by Maldives at its twentieth session and, most recently, by the Netherlands at its thirty-fifth. That responsibility is one that she takes very seriously when she recommends that the Council consider action to prevent, respond to or address violations and to assist in the de-escalation of a situation of concern.

76. More generally, her mandate has an important prevention and early warning role to play in the discharge of the responsibility to protect, as it is uniquely placed to collect a wealth of information on issues linked to the freedom of peaceful assembly and of association, including gaps in protection, swiftly deteriorating situations and the scale, the nature and patterns of violations. The Special Rapporteur will, when necessary, call the attention of the relevant bodies, including the Security Council, to such situations and request that they address, and take immediate action in response to, the risks and violations identified.

H. Coordination

77. The Special Rapporteur will continue to work with the Special Rapporteur on the promotion and protection of the rights to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders, with whom there already exists a well-established pattern of close cooperation. At the same time, she will engage with other relevant mandate holders with a view to coordinating efforts, while avoiding overlapping and duplication of work.

78. Expanding civic space is part of the global vision of OHCHR and is likely to remain so for the coming four years (2018-2021). She will, therefore, work closely with the Working Group on the Universal Periodic Review, treaty bodies, other Human Rights Council mechanisms and the United Nations system in general to

[5] See www.ohchr.org/EN/Issues/AssemblyAssociation/Pages/StrategicLitigationNational RegionalInternationalCourts.aspx.

contribute to an increase in global civic space, the creation of a safe and enabling environment for civil society and the promotion and protection of the rights to freedom of peaceful assembly and of association worldwide.

79. The Special Rapporteur will cooperate with international organizations both inside and outside the United Nations system, in particular ILO, while being mindful of paragraph 5 (g) of Human Rights Council resolution 15/21, according to which her tasks include undertaking activities "such that the present mandate will not include those matters of specific competence of the International Labour Organization and its specialized supervisory mechanisms and procedures with respect to employers' and workers' rights to freedom of association, with a view to avoiding any duplication".

80. Consultation and coordination with regional human rights organizations worldwide and national human rights mechanisms are equally essential to the success of the mandate.

81. Lastly, but not least importantly, the support and collaboration of Member States remain key for any effort by the Special Rapporteur to make a difference. The Special Rapporteur restates her commitment to engaging in constructive dialogue with government representatives and to strengthening their engagement with the Human Rights Council and its mechanisms, including but in no way limited to, the Governments that have traditionally supported the mandate.

VII. Conclusion and recommendations

82. **This section contains a very simple, straightforward conclusion about what remains to be done by an independent expert, considering the numerous guiding principles and recommendations that have already been put forward in this area.**

83. **The success of the mandate on the rights to freedom of peaceful assembly and of association, just as that of any other mandate, cannot be measured in terms of resolutions adopted, reports presented, dialogues held or initiatives promoted.**

84. **The mandate presents a unique opportunity and challenge to explore and identify specific solutions and to mobilize public opinion and support in order to promote and protect civic space both nationally and globally. The Special Rapporteur will seek out and provide for such opportunities and challenges, to the very best of her knowledge, ability and future efforts.**

85. **The Special Rapporteur recommends that States and all international actors and relevant stakeholders make full use of the mandate. The mandate is a service, and the rights to freedom of peaceful assembly and of association are essential for democracy and constitute an indispensable condition for sustainable development.**